



## Lamoine Board of Selectmen Minutes of April 6, 2006

Chair Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen Brett Jones, Richard Fennelly, Jr., Perry Fowler, S. Josephine Cooper, Cynthia Donaldson; Administrative Assistant Stu Marckoon, Planning Board Secretary Michael Garrett, CTV operator Merle Bragdon, Harbor Master Gerald Ford, Code Enforcement Officer Dennis Ford, members of the public David Grasso, Phil Standel, Robert Alvarez, Paul Frederick and Gary Googins

**Agenda Review** – Stu said he had a couple of items to address at the end of the agenda.

**Minutes of March 23, 2006** – Perry moved to approve the minutes as written. Cynthia 2<sup>nd</sup>. **Vote in favor was 4-0, Fennelly abstained.**

**Road Names – Lobster Pound Road** – Stu explained that the Board could reconsider this name, and the procedure to do so. Jo, who had originally moved to approve the name at the previous meeting, moved to reconsider that motion. Perry, who provided the original 2<sup>nd</sup>, 2<sup>nd</sup> the motion to reconsider. **Vote in favor to reconsider was 4-0.** Perry said he spoke with the Pettegrows earlier in the week and they had no particular preference, and Lobster Lane would be OK with them. Stu said there was an e-mail from Marie Langlois earlier in the day and listed several suggestions from Ms. Langlois. Bob Alvarez said Lobster Lane suited him. Perry moved to name the road Lobster Lane. Jo 2<sup>nd</sup>. Brett said it seems like an appropriate name. **Vote in favor was 5-0.**

**Paradise Drive, Simon Lane, Jessie Way** – Stu explained all three roads were located in the Pine Grove Estates Subdivision. Perry moved to approve all three names. Cynthia 2<sup>nd</sup>. **Vote in favor was 5-0.** Selectmen signed the road naming orders

**Consent Agreements – Tweedie** – Stu reported the Planning Board took no action on this as Ms. DeTuede was not in attendance. He said it would be on the May agenda. Jo said this item would remain on the table.

**Partridge Cove Association** – CEO Dennis Ford said he received a compliant regarding the sign at the Partridge Cove Subdivision being replaced without a permit. He said he looked and saw the new sign. He said he contacted Philip Standel, the chair of the Association and they filled out an application. He said Mr. Standel thought they were replacing a sign and did not need a permit. Dennis said there is no language in the ordinance other than that a sign requires a permit. He said he was concerned about the precedent. He said a sign is excluded from the 100-square foot minimum limit because it has a standard for a maximum size. He said this is the first time it has come up and there

has to be some sort of standard. He said this could open a big can of worms if people didn't get permits for signs. He said there was little guiding language in the ordinance.

Jo asked if size is the only consideration in the ordinance. Mike Garrett said visibility is also addressed. Perry asked what the cost would be. Stu said about 45-cents. He said even at double the fee it would not even cover the cost of the certified mail used to deliver the notice of violation. A short discussion followed regarding the ordinance and the fee section.

Jo said a proposed consent agreement seems reasonable and asked for another explanation of the reason the situation was considered a violation. Dennis said 100-percent of the structure was replaced, and it meets the definition of a structure. He said buildings of less than 100-square feet are allowed without a permit. He said the sign section is separate in the ordinance, and because it is separate a permit should be required each time a sign is replaced. He said some work is needed to clarify the ordinance.

Richard said without clear language in the ordinance anyone could easily make a mistake. Jo asked if the sign was in the same location. Dennis said yes. A discussion followed on whether any fine ought to be a double fee or something higher to cover town costs. A discussion followed on whether the ordinance needs clear language for a permit requirement.

Phil Standel said he discussed the matter with Dennis at length and he came to accept the CEO's point of view. He said it was the same size sign, but the wording has changed. He said it was not a complete replacement – the posts are the same. He said he was led to understand that any penalty would be twice the fee. He said he considered that reasonable and was willing to pay a fine for being late.

Brett said if the structure is the same and the dimensions are the same he didn't think the Board should be doing this. Bob Alvarez said there has to be an ordinance for there to be a violation. He said the Selectmen do not have the power to enact an ordinance.

Jo said she was listening to the CEO seriously and trying to be fair. She said we're not talking about a huge amount of money here, but trying to do what's right. Richard said there is a difference between a total replacement and a partial replacement. He said if there is just a partial replacement of the structure the town should leave this alone. He said a discussion on this issue outside of the current case might be helpful. He said he understands the CEO, but if this is not a 100% replacement, that shuts down the town's argument. Perry said Dennis did use the correct judgment and **moved to accept the permit without any application fee or fine**. A short discussion followed about encouraging an ordinance change in the fine structure.

Jo asked Dennis what he considers a replacement. Dennis said he looks at the value, and the sign was greater than 75% of the total structure including the posts. He said he's not opposed to Perry's point, but this was the proper time to bring this to light. He said it's too bad not to have any guiding language. **Jo 2<sup>nd</sup> Perry's motion**. Dennis asked if that

means no fee at all – the motion seems clear. Jo said the application was done in good faith. **Vote in favor was 4-1 (Jones opposed).** Cynthia asked to include this issue in an upcoming discussion with the Planning Board. Jo said this could be one of the topics for goal discussions. Selectmen and Mr. Stadel signed the consent order. A short discussion followed regarding the ordinance language.

**Code Enforcement Concerns – Covered Loads** – Dennis said he scolded a driver running without a tarp the other day. He said the driver was an independent operator who was not aware of the ordinance. He said he intended to send the pit owners/operators a reminder letter. A short discussion followed on the town's ability to enforce the covered load requirement.

Dennis said he wondered if the town ought to pay for signs to post at pit entrances reminding drivers of the covered load requirements. He said he didn't know how much that would cost. Brett said the town should not pay for it – pit owners should. Dennis asked if it was fair to do one pit at a time as they are renewed. Perry said that could be made a condition for pit renewals. He said enforcement is a concern, as some trucks are equipped with tarps and some are not.

Jo said she needs to think about the sign idea. Brett said the only thing to do is to send a letter. He said if the Planning Board wants to suggest an ordinance change for reminder signs, that might be in order. Jo said a paragraph could be added to the letter to suggest a sign and request input. Brett said such a request would be discarded. A short discussion followed. Jo said the purpose of the Selectmen was to keep the town safe.

Perry moved to send a letter with a suggestion that a sign be erected and offer to have the town supply such signs to the pit owners at cost. Jo 2<sup>nd</sup>. **Vote in favor was 5-0.**

Dennis asked if the Selectmen wanted to review the revised letter. Jo said no. Brett said a reminder for the Planning Board should be in order to talk about the sign posting idea. Jo said that should go on their agenda.

**Possible Subdivision Violation** – Stu explained that a 54-acre lot of land split off 28-acres about 3-years ago which turned into the Old Schoolhouse Subdivision. The remaining 26-acres were recently split in half, and concern was raised by Assessor Terry Towne that this was an improper expansion of a subdivision. Dennis said the original owner has the right to sell two lots as long he lives on the 3<sup>rd</sup> lot. He explained the homestead exemption on subdivisions. He said attorneys have disagreed. He said town attorney Tony Beardsley did up the deed and noted in the deed that the original owner had homestead rights, which gives the impression it's not a subdivision expansion.

Perry said he didn't see where this is a subdivision. Richard said he agreed with Perry's observation. A short discussion followed on the attorneys' opinions. Jo asked if it was a formal complaint. Stu said it came as an inquiry from Assessor Towne. Dennis asked where the town turns if attorney Beardsley is conflicted. Jo said it would come back to the Selectmen. Dennis said he was asking to spend town money to get a clarification

from the town attorney. Stu asked if Mr. Beardsley would be acting on behalf of the town. Jo said yes, and if there is a conflict, the Board should see what action it should take.

**Pine Tree Waste Contract** – Stu said the only issue Pine Tree Waste had with the proposed contract was with the cardboard recycling portion. He said Mr. DeRoss was going to prepare a cost analysis of cardboard and what might be in the best interest of the town.

**Letter from Bangor Recycling** – Stu said there did not appear to be anything the town needed to do – it seemed to be a notice that Bangor Recycling was going to charge more for processing recyclables.

**Acadia Disposal District** – Stu said the cost estimates for a transfer station were in the Selectmen's packet – it was over \$2-million dollars. A short discussion followed on the expense of building a transfer station.

**Requests for Proposals – Sweeping** – Stu said the sweeping specs were the same as the past few years for the most part and are due the next meeting. Selectmen indicated it should go to bid.

**Blowdown Removal-** Stu said Road Commissioner Dennis Ford reviewed the proposed specs and felt they were adequate. There was no objection to placing that out to bid.

**Grading/Shoulder Shaping-** Stu said many roads have shoulders that need shaping. Dennis said the Maine DOT has offered to go to towns and give suggestions on ditching. Jo said that's a great idea. She said some places need ditch work. Dennis said when the roads clear this spring the shoulders should be cut to match the pavement. He said that may save money in the long run in preventing road damage. He said that hasn't been done in years.

Perry Fowler said he's purchased a grader and has offered to grade Gully Brook and Berry Cove Road properly at the same price as the previous year. He said he would not charge full price, but would like to be compensated for some time and fuel. He said he would abstain from any voting on a motion regarding this. Jo said the offer seems very reasonable, and moved to award the grading to Perry. Brett 2<sup>nd</sup>. **Vote in favor was 4-0 (Fowler Abstained).**

**Fire Station Roof Replacement** – Richard noted there are liquidated damages for late completion, but he did not see a specific starting date. Stu said that could be specified in any final contract. He asked if the specs were OK otherwise. Selectmen said they were. Dennis asked if the specs included fasteners. Richard said it was ¼" roofing nails. A short discussion followed.

Lamoine Beach Maintenance – Stu said he would recommend that the Selectmen and Rusty Boynton meet to discuss desired increased maintenance at Lamoine Beach. Jo said that would be OK.

Selectmen instructed Stu to send out the bids on the sweeping, the blowdown removal and the revised roof replacement.

**General Financial Policies** – Cynthia had a number of suggested wording changes and gave those to Stu in writing. There was a very brief discussion about the policy.

**Safe Routes to School** – Stu said he called the Maine DOT regarding this program and they suggested he get information and take pictures, which he did. Richard asked if having a sidewalk obligated the town to remove snow. Stu said that's a good question and he would try to find out. A short discussion followed on sidewalks vs. striped shoulders. Cynthia asked if the Selectmen should check on applications. Stu said he would be glad to check.

**Gravel Inventory** – Stu said he'd written to James Sewall Company and they did not come up with an estimate yet as they needed more information. Stu said he had e-mailed that to them. Gary Googins said the gravel ordinance requires an inventory of the pit yearly in section 10. He said the contract with Gott required a report when they were done digging. He said the town is obligated to submit yearly reports.

Jo said one could do an inventory, and the town is looking at which option would be the best choice. Mr. Googins said he wasn't sure if the question was whether we should or shouldn't. Bob Alvarez asked the Selectmen to ask Stu to get a flight done by Sewall, and that shouldn't be that costly. Brett said it would be good to find out what the cost is for a flyover and picture. Mr. Alvarez said if that doesn't happen a whole year is lost. A short discussion of the flyover methods followed. Jo said she's uncomfortable not knowing the cost. A short discussion followed on what account the cost could come from. Stu said he may have more information on that next week.

Mr. Alvarez said the leaves are off the trees. He suggested that the Selectmen could walk the town property and see what this is all about. Perry said he agreed this might be the best way to get an accurate measurement, but if it's vastly different from Gott's, what does the town do about it. Mr. Alvarez said if both the Gott survey and the Sewall flight were done to state standards, the answer should be the same. A short discussion followed on what standards are used.

Richard asked Mr. Alvarez if there was any digging going on at the town property. Mr. Alvarez said he thinks so. Richard asked when the contract expired. Stu said originally it was 2004 and it was extended to 2005. Richard asked why there was not a final tally, and he thought the answer was that there is a year to do that final tally. He said if there is still removal going on, the contract is expired. He said he was led to believe that ongoing removal should not be taking place. He said it would be pretty easy to see if there is fresh digging going on. A short discussion followed regarding reporting requirements and the gravel inventory.

Richard said the town boundary markers have been removed and those need to be in place. Stu said he wrote to Steve Salisbury requesting that. Richard said there has been an allegation of gravel removed lower than the elevation of the landfill. Stu asked if it would be helpful for Mr. Gott or Mr. Salisbury to meet with the Selectmen. Brett said before meeting with them there should be some accounting, as there could be an argument. Cynthia said she's heard lots of issues, and it's clear that the town doesn't employ enough manpower to monitor the ordinance and the contracts. She asked what should be done about that, and how to tackle monitoring. Dennis said that should be outsourced to experts. Stu asked if she was asking for a Code Enforcement patrol. Cynthia said she was saying it needs discussion. Mike Garrett said the fines assessed also need discussion. Cynthia said there is a need for a general discussion.

Richard said he had no sense of the degree of the importance of the land sale when it was proposed, and the reason it was shot down was that there were many issues with that pit, and that is a sore spot with some people. Jo said it's a confusing issue with some serious questions, but she wouldn't characterize it as the whole town. Brett said it would be good to have the Selectmen ahead of the curve. A short discussion followed regarding the digging going on, an inventory of contracts, and reviewing the various contracts periodically.

Richard said Gott doesn't seem to be overdue yet on settling up. Jo said there ought to be a general procedures discussion and an annual review of contracts. Mr. Garrett said restoration would be a good discussion. Mr. Alvarez said even more serious than restoration is what's being buried in the pits. He said building debris and land clearing materials are being brought in. Jo asked if there was a specific complaint. Mr. Alvarez said if the Selectmen visited the pit with him, he would show them. He said he didn't think town meeting was critical of the Selectmen; there were just too many unanswered questions. Jo said there seems to be a lack of trust of gravel pit operators.

**Lamoine Quarterly** – Some of the Selectmen expressed discomfort with an article about open town meeting vs. referendum voting. They asked that wording be added to welcome suggestions on how to encourage more attendance at town meeting.

**Dog Warrant** – Selectmen reviewed the list of unregistered dogs and signed the warrant.

**Expenditure Warrant 20** – Selectmen signed the warrant totaling \$284,167.26. Stu noted about \$270,000 was for the school department. He said he shifted \$200,000 from investments to cover the checks.

**Cash & Budget Report** – Stu reported cash flow has been very good for the year and there is still over \$1-million in the investment accounts with 3-months to go.

**Other – Illegal Dumping** – Stu reported that a couch and refrigerator had been dumped along Gully Brook Road and a TV at the landfill gate. He asked if it was OK to hire Rusty to get rid of them.

Mowing – Stu said he got a flyer from Richard McMullen who's mowed the town hall and Lamoine Beach for the past several years. Selectmen said if his estimate is within budget to go ahead and hire him.

### **Workshop to Discuss Goals:**

Selectmen discussed the following areas to discuss for goals –

- ▶ *Setting aside time to discuss personnel/employee/town organization matters before it's tied to individuals*
- ▶ *Scheduling a round table discussion with the Planning Board and Code Enforcement Officer*
- ▶ *A mechanism to make sure when a hole is found in an ordinance that it gets put into a queue to be addressed*
- ▶ *Standards for ordinance fines*
- ▶ *A Historical program for the Cable TV Channel*
- ▶ *Having the Selectmen interact more with the community*
- ▶ *Bicycle paths*
- ▶ *Thanking people who serve the town*
- ▶ *Attracting more people to town meeting and facilitating votes*
- ▶ *Meeting with Planning Board and other boards*
- ▶ *Follow up slow restoration complaints on gravel pits*
- ▶ *Communicate with the various board, throw a thank-you party*
- ▶ *Improve safety, quality of life, bike lanes, sidewalks*
- ▶ *Quarterly reports from boards, a queue to address various issues as they arise, and interactions with boards*
- ▶ *Meet at the fire station with the fire department*
- ▶ *Schedule a Planning Board meeting soon*
- ▶ *Discuss Road Construction needs*
- ▶ *A laptop computer for the Code Enforcement Officer*

**Next Meeting(s)** – The next meeting is scheduled for April 20, 2006. The June meeting schedule may have to be juggled a bit to accommodate 8<sup>th</sup> grade graduation.

There being no further business, the meeting adjourned at 9:30 PM

Respectfully submitted,

Stu Marckoon, Administrative Assistant